

CLIFFE AND CLIFFE WOODS RESIDENTS DEVELOPMENT GROUP

mycliffevillage@gmail.com

Constituted 29 March 2022 | Rule 6(6) party to appeal APP/A2280/W/22/3313673 | Nominating body for the APCM Recreation Ground asset of community value

Ms Hannah Gunner

Principal Planning Officer, Development Management

Medway Council, Gun Wharf, Dock Road, Chatham, Kent ME4 4TR

By email: hannah.gunner@medway.gov.uk and planning.representations@medway.gov.uk, and via the planning portal

Copy: Mr Peter Hockney, Head of Development Management Planning Service

9 September 2026

Dear Ms Gunner

SUPPLEMENTARY OBJECTION

MC/26/1720, MC/26/1721, MC/26/1722, MC/26/1723 and MC/26/1724

The Town and Country Planning (Environmental Impact Assessment) Regulations 2017, regulations 3 and 9: subsequent applications, and the adequacy of the environmental information. Land to the east and west of Church Street, Cliffe, Rochester

The group filed five objections and a covering letter on these applications on 9 September 2026. This letter is supplementary to all five. It raises one matter which is common to every one of them, which the group did not address in those objections, and which it asks the Council to deal with before any of the five is determined. The group asks that this letter be placed on each of the five files.

The matter is short. The permission is for EIA development. Each of these five applications is a subsequent application within the meaning of the 2017 Regulations. Regulation 3 prohibits the grant of subsequent consent for EIA development unless an environmental impact assessment has been carried out, and regulation 9 prescribes what the Council must do about the environmental information before it. On two of the five applications, the applicant's own submitted documents state in terms that the information necessary to carry out the assessment is not available. The group asks the Council to record how it has directed itself under regulation 9 on each of the five.

This letter does not seek to reopen the principle of development, which was settled by the appeal decision of 28 November 2023. It does not ask the Council to revisit anything determined at outline, and it advances no argument about health impacts, which the Inspector addressed at paragraphs 57 and 58 of that decision. It is directed solely at the statutory process by which these five applications fall to be determined.

1. The permission is EIA development

At paragraph 52 of the appeal decision the Inspector recorded that the proposal falls within Schedule 2, part 10(b) of the EIA Regulations and is therefore Environmental Impact Assessment development, and that it was supported by an Environmental Statement in four

volumes. That Environmental Statement accompanied application MC/22/0254. The Council's register records the environmental impact assessment as received on 11 March 2022, and the four volumes as published on 22 June 2022.

2. Each of these five is a subsequent application

Regulation 2(1) of the 2017 Regulations defines a subsequent application as:

an application for approval of a matter where the approval—(a) is required by or under a condition to which a planning permission is subject; and (b) must be obtained before all or part of the development permitted by the planning permission may be begun

The group has tested each of the five against that definition, condition by condition, rather than assuming it. Each satisfies both limbs:

- **MC/26/1721, condition 10 as amended by MC/24/0750: “No development shall take place until the details of the following highway works have been submitted to and approved in writing by the local planning authority”.**
- **MC/26/1722, condition 11: “No development shall take place until the details of the following highway works have been submitted to and approved in writing by the local planning authority”.**
- **MC/26/1723, condition 12: “No development shall take on the eastern parcel until the details of the following highway works have been submitted to and approved in writing by the local planning authority” [sic — the word “place” is omitted in the Inspector’s schedule]. The group notes that the register describes MC/26/1723 as details of highway works to town roads, whereas condition 12 as imposed by the Inspector identifies Cooling Road improvements shown on drawing ITB11092-GA-022 on the eastern parcel, and asks the Council to confirm which is correct.**
- **MC/26/1724, condition 26 as amended by MC/24/0750: “No development shall take place prior to each residential phase of development, until an acoustic assessment has been undertaken”.**
- **MC/26/1720, condition 54 as amended by MC/24/0750: “No development shall take place prior to each phase or sub-phase, with the exception of highway works, until an Air Quality Emissions Mitigation Statement has been submitted to and approved in writing by the Local Planning Authority”.**

Each is therefore an approval required by a condition, which must be obtained before all or part of the permitted development may be begun. Each is a subsequent application, and by the definition of “EIA application” in the same regulation, each is an EIA application, being “a subsequent application in respect of EIA development”.

3. Regulation 3: the prohibition

Regulation 3 provides:

The relevant planning authority, the Secretary of State or an inspector must not grant planning permission or subsequent consent for EIA development unless an EIA has been carried out in respect of that development.

The words “or subsequent consent” are the operative ones for present purposes. The prohibition applies to a consent granted pursuant to a subsequent application, which is what a decision on each of these five applications would be.

4. Regulation 9: what the Council must do

Regulation 9 is headed “Subsequent applications where environmental information previously provided”. It applies, so far as material here, where it appears to the authority that an application before it is a subsequent application in relation to Schedule 1 or Schedule 2 development, has not itself been the subject of a screening opinion or screening direction, and is not itself accompanied by an environmental statement, and where the application for planning permission to which the subsequent application relates was accompanied by an environmental statement.

On the face of the Council’s own file, three of those four preconditions are plainly satisfied on each of these applications: none is accompanied by an environmental statement, the parent application was, and the development is Schedule 2 development. Whether any of the five has itself been the subject of a screening opinion or direction is a matter only the Council can answer, and the group asks it to do so.

Where regulation 9 applies, paragraphs (2) and (3) provide:

(2) Where it appears to the relevant planning authority that the environmental information already before them is adequate to assess the significant effects of the development on the environment, they must take that information into consideration in their decision for subsequent consent.

(3) Where it appears to the relevant planning authority that the environmental information already before them is not adequate to assess the significant effects of the development on the environment, they must serve a notice seeking further information in accordance with regulation 25.

The group puts the effect of those provisions carefully, and no higher than it goes. Regulation 9 does not in terms require the Council to publish a separate adequacy assessment, and the trigger in each limb is expressed as what appears to the authority. But paragraphs (2) and (3) between them exhaust the field and prescribe mutually exclusive mandatory consequences. There is no third course. The Council cannot lawfully determine any of these five applications without having directed itself to the question of whether the environmental information already before it is adequate to assess the significant effects of the development on the environment, because until it has answered that question it cannot know which of the two duties it is under.

If the answer is that the information is not adequate, the consequence is not discretionary. Regulation 9(3) provides that the Council “must” serve a notice under regulation 25, which is headed “Further information and evidence respecting environmental statements” and which carries its own publicity requirements, including a period for representations of not less than 30 days.

The Government’s Planning Practice Guidance on Environmental Impact Assessment states, at paragraph 027, that “There are specific requirements in relation to subsequent applications in regulation 9 and regulation 10”. Regulation 10 is the provision which applies where the parent application was not accompanied by an environmental statement, and it is not engaged here. Regulation 9 is.

5. On two of the five, the applicant says the information is not available

The group would not press this ground if it rested only on inference. On two of the five applications it does not. The applicant’s own submitted documents say so.

MC/26/1724, condition 26, noise

Section 6.0 of the noise impact assessment prepared by SLR Consulting Limited, revision 01 of 7 September 2026, states:

At this stage of the design process, detailed information regarding building services plant, kitchen extract systems, occupancy levels, operational activities (i.e the likelihood of significant amplified music or performance) and hours of use is not available.

Consequently, it is not possible to undertake a definitive BS 4142 assessment.

At page 19 the same report states:

No specific noise model has been developed to predict night-time maximum sound levels across the Site.

Condition 26 imposes an express maximum noise level criterion of 45 dB(A) with windows closed. The report tells the Council that no model exists for that metric, and tells it separately that the information needed for the community hub assessment is not available. Whatever view the Council takes of the report's conclusions on internal ambient levels, those two statements are the applicant's own account of the adequacy of the information, and they engage regulation 9(3) on their face.

MC/26/1720, condition 54, air quality

Section 2.0 of the Air Quality Emissions Mitigation Statement, revision 1.0 of 4 September 2026, states that the damage cost figure it relies upon was that calculated in Chapter 15 of the Environmental Statement, and that "this monetary value has been utilised as an appropriate benchmark". The Statement performs no calculation of its own. It cites no Defra value, no emission factor, no version of the Emissions Factor Toolkit and no price year.

The Council's register records the environmental impact assessment as received on 11 March 2022. The Defra source sector damage costs have since been updated twice, in 2023 and in 2025, and the current values are expressed in 2025 prices, the guidance having last been updated on 28 April 2026. The Council's own Air Quality Planning Guidance states that "The source sector damage costs are updated periodically by Defra, therefore the latest costs should always be used".

The Statement contains no reference to the Thames Estuary and Marshes Ramsar site, to the Special Protection Area, to the Site of Special Scientific Interest, to nitrogen deposition, to any habitat or to any ecological receptor. It considers road transport emissions solely as a monetised cost to human health.

The question the group asks is not whether the Council agrees with the Statement. It is whether the Council has concluded that environmental information derived from a calculation carried forward from the Environmental Statement, using values which have twice been superseded and which addresses no ecological receptor, remains adequate to assess the significant effects of the development on the environment. If it has so concluded, the group asks it to record why. If it has not, regulation 9(3) applies.

6. Cumulative and interrelated effects

The group does not suggest that determining these applications separately is of itself unlawful, and it does not advance any argument of artificial fragmentation. There is one permission, one development and one Environmental Statement. The group's point is narrower and sits inside regulation 9.

The adequacy of the environmental information cannot sensibly be judged on each application in isolation, because the effects the information must be adequate to assess are the effects of the development. The Planning Practice Guidance on Environmental Impact Assessment states, at paragraph 024, that “The local planning authorities should always have regard to the possible cumulative effects arising from any existing or approved development”.

Three dependencies on this site are apparent from the Council’s own files, and the group offers them as examples rather than as an exhaustive list.

- The acoustic scheme submitted under condition 26 is modelled on a layout which the report identifies only as “Georeferenced client drawings”, and the layout appended to it at Appendix B is marked “DRAFT”. The layout of the residential phase is undetermined in MC/26/1465.***
- The mitigation claimed under condition 54 includes cycle parking which will in any event form part of the reserved matters under MC/26/1465, so the value of the mitigation depends on a decision not yet taken.***
- The highway works submitted under condition 11 fix the geometry of the sole vehicular access to the replacement sports ground, while the design and layout of that ground is undetermined under condition 41 in MC/26/1646, its management scheme is undetermined under condition 42, its hours of use and community access are undetermined under condition 43, and the reserved matters for that phase are undetermined in MC/26/1467. Conditions 42 and 43 require, respectively, a management and maintenance scheme and a community use agreement including “details of pricing policy, hours of use, access by the community and grassroots clubs”. Until those exist, the intensity and pattern of use of the facility are not established.***

The group asks the Council to identify, for each of the five applications, which other conditions and applications it has taken into account in reaching its view on the adequacy of the environmental information.

7. The determination period

The group raises this so that the position is recorded accurately on the files, and not as any form of pressure.

In the covering letter of 9 September 2026 the group observed that the deemed discharge provisions in section 74A of the Town and Country Planning Act 1990 do not apply, because paragraph 2(1)(a) of Schedule 6 to the Town and Country Planning (Development Management Procedure) (England) Order 2015, given effect by article 30(a), exempts a condition attached to the grant of planning permission where the development permitted is EIA development. That remains correct.

It does not follow that no period applies. Regulation 68(2) of the 2017 Regulations provides that, where it falls to an authority to determine an EIA application, articles 27 and 34 of that Order have effect as if for the references to periods of 8 and 13 weeks there were substituted a reference to a period of 16 weeks. Because each of these five is an EIA application, as set out at section 2 above, the period for determining each is 16 weeks and not 8 weeks. The Planning Practice Guidance on the use of planning conditions states the same at paragraph 034.

On the receipt dates recorded on the register, that period expires on or about 28 December 2026 for MC/26/1720, MC/26/1721, MC/26/1723 and MC/26/1724, and on or about 29 December 2026 for MC/26/1722. The Council’s internal target dates of 2 and 3 November 2026 fall comfortably within

it. The group draws the point to the Council's attention because it means there is time to obtain further information under regulation 25 if that is what regulation 9(3) requires, and because the group would rather the Council took that time than determined the applications on information it has not been able to satisfy itself about.

8. Delegation

The group asks the Council to confirm whether these five applications are to be determined under delegated powers or reported to the Planning Committee.

The group makes no assertion of any right in this respect. It records only that the determination of planning applications is a function which, by regulation 2(1) of and Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, may not be the responsibility of a local authority's executive, so the question is one for the Council's scheme of delegation rather than for Cabinet. The group is separately asking its ward members to consider whether the matters raised in these representations warrant referral under whatever mechanism the Constitution provides.

The planning reasons the group would advance for referral are these: the applications form part of a major EIA development; they engage regulations 3 and 9 of the 2017 Regulations; and on two of them the applicant's own documents state that information necessary for assessment is not available.

9. Three points of clarification

The group records the following so that the Council is not left to work them out, and so that the objections are read as the group intends them.

- On MC/26/1724, the noise impact assessment does state survey dates. Table D at section 4.4.1 and Table E at section 4.4.2 both give the range as "Thursday 28th May 2026 to Tuesday 2nd June 2056", the year 2056 being a plain typing error for 2026. The group's point is not that the dates are absent. It is that the measured data plotted in Appendix C run only to 31 May 2026, so the tables and the data they summarise do not agree, and the survey period from which every subsequent conclusion is derived is not established.*
- On MC/26/1722, the note recording that the junction is tracked for a refuse vehicle, a van and a large car, and that coach access would require the junction radii to be changed, appears on drawings 5997-003-6012 revision A02 and 5997-003-6032 revision A01. It does not appear on the general arrangement drawing 5997-003-6002 revision A02.*
- The group does not pursue, and asks the Council to disregard, any suggestion that the absence of recorded constraints on these applications is itself a defect. The group has checked the Council's records on comparable applications and accepts that the position is not unusual. What the group asks instead is set out at paragraph 2 of its covering letter of 9 September 2026: that the environmental protection team be consulted on MC/26/1720 and MC/26/1724, that the highways officers be consulted as local highway authority on MC/26/1721, MC/26/1722 and MC/26/1723, that the officers holding the ecology and arboricultural responsibilities be consulted on MC/26/1722, and that the responses be placed on the files.*

10. What the group asks the Council to do

On each of MC/26/1720, MC/26/1721, MC/26/1722, MC/26/1723 and MC/26/1724, and before any of them is determined:

- **Confirm whether the Council treats the application as a subsequent application within regulation 2(1) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017, and if not, why not.**
- **Confirm whether the application has itself been the subject of a screening opinion or screening direction, and if so, place it on the file.**
- **Record on the public file the Council's conclusion under regulation 9 as to whether the environmental information already before it is adequate to assess the significant effects of the development on the environment, and the basis of that conclusion.**
- **If the Council concludes that the environmental information is not adequate, serve a notice seeking further information under regulation 25 and run the associated publicity, and do not determine the application before that process is complete.**
- **Identify which other conditions and applications on this permission have been taken into account in reaching that conclusion, and how the Council has satisfied itself that mitigation secured under one condition remains compatible with mitigation or design being considered under another.**
- **Confirm whether the Council has considered the original Environmental Statement submitted with MC/22/0254 against the detailed scheme now proposed, and whether it considers that document to remain current for the purposes of regulation 9.**
- **Confirm the determination period the Council is applying to each application, and in particular whether it applies the 16 week period substituted by regulation 68(2) of the 2017 Regulations.**
- **Confirm whether each application is to be determined under delegated powers or reported to the Planning Committee.**
- **Place this letter on the file for each of the five applications, acknowledge it in writing, and notify mycliffevillage@gmail.com on the day any decision is issued on any of them.**

11. Closing

The group is not asking the Council to reopen the appeal, and it is not asking it to require a new Environmental Statement. It is asking a narrower and, the group hopes, an uncontroversial question. This is EIA development. These five approvals must be obtained before development may begin. The Regulations tell the Council what to do about the environmental information before it, and they give it only two courses. On two of the five applications the applicant has said, in the documents it has submitted, that information needed to carry out an assessment is not available. The group asks the Council to say which of the two courses in regulation 9 it is taking, and why.

No member of the group is a lawyer. This letter is written by residents, on the documents the Council has published and on the published text of the Regulations, and the group would welcome correction on any point where it has misread them.

The group would be grateful for written acknowledgement that this letter has been placed on the file for each of the five applications.

Yours sincerely

Patricia Leslie (Chair)

For and on behalf of Cliffe and Cliffe Woods Residents Development Group

mycliffevillage@gmail.com

Sources relied on, all publicly available: appeal decision APP/A2280/W/22/3313673, 28 November 2023, paragraphs 52, 57 and 58 and conditions 10, 11, 12, 26, 41, 42, 43 and 54; decision notice MC/24/0750, 3 May 2024, conditions 10, 26 and 54 as amended; Town and Country Planning (Environmental Impact Assessment) Regulations 2017, SI 2017/571, regulations 2(1), 3, 9, 25 and 68(2); Town and Country Planning (Development Management Procedure) (England) Order 2015, articles 27, 30(a) and 34 and Schedule 6 paragraph 2(1)(a); Town and Country Planning Act 1990, section 74A(6)(c); Local Authorities (Functions and Responsibilities) (England) Regulations 2000, SI 2000/2853, regulation 2(1) and Schedule 1 Part A; Planning Practice Guidance, Environmental Impact Assessment, paragraphs 024 and 027 (reference IDs 4-024-20170728 and 4-027-20170728); Planning Practice Guidance, Use of planning conditions, paragraph 034 (reference ID 21a-034-20190723); Medway Council, Air Quality Planning Guidance, March 2016, revised November 2021; Defra, Air quality appraisal: damage cost guidance, last updated 28 April 2026; “Residential Development Noise Impact Assessment - Condition 26, 27 and 28 Discharge Assessment - Church Road, Cliffe”, SLR Consulting Limited, revision 01, 7 September 2026, sections 5.3 and 6.0 and Appendices B, C and D (MC/26/1724); “Air Quality Emissions Mitigation Statement, Church Street, Cliffe”, SLR Consulting Limited, revision 1.0, 4 September 2026, section 2.0 (MC/26/1720); drawings 5997-003-6002 revision A02, 5997-003-6012 revision A02 and 5997-003-6032 revision A01, Robert West Consulting (MC/26/1722); and the group’s objections and covering letter of 9 September 2026.

Copy: Cliffe and Cliffe Woods Parish Council; Cllr Gary Etheridge, Cllr Mrs Elizabeth Turpin and Cllr John Williams, Strood Rural ward.